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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,446	01/06/2005	Takuji Himeno	450100-04678	2798
7590 William S Frommer Frommer Lawrence & Haug 745 Fifth Avenue New York, NY 10151				
EXAMINER				
TOPGYAL, GELEK W				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/520,446

Applicant(s)

HIMENO ET AL.

Examiner

GELEK TOPGYAL

Art Unit

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/CD)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 7/13/2009 have been fully considered but they are not persuasive.
2. In re page 10, the applicants, in response to the 112 rejection cites paragraph [0138] and Fig. 14 that teaches two insertion data groups being "Pack_V_h" and "Pack_V_n".
3. In response, the examiner finds it even more confusing, as the "insertion data groups" as cited in the claims are "EditPack_V_h" and "EditPack_V_n". Secondly, Figure 14 only depicts "EditPack_V_h" and "EditPack_V_n". However, regardless of the explanation, the examiner reads the claimed "insertion data groups" as "EditPack_V_h" and "EditPack_V_n", not Pack_V_h and Pack_V_n. The limitation of the "data group (Pack_V)" and "new input data group (Pack_V_n)" will be discussed below.
4. In re pages 10-12, the applicants present the central argument that the added limitations of "wherein the insertion data groups (EditPack_V_h) are independent from the to-be-edited data group (Pack_V_h) so that only the insertion data groups (EditPack_V_h) are separated upon splicing" and "wherein the insertion data groups (EditPack_V_n) are independent from the new input data groups (Pack_V_n)" are not taught by Sugahara et al.
5. In response, the examiner respectfully disagrees. The examiner is giving the broadest reasonable interpretation as follows. The argument present by the applicants relies on the statement that "insertion data groups (EditPack_V_h)" are independent

from the "to-be-edited data group (Pack_V_h)" and that only the "insertion data groups (EditPack_V_h)" are separated upon splicing. Given the broadest interpretation, Sugahara et al's Figure 12C is referenced. The claimed "to-be-edited data group" is met by the data groups that are located after point q. The claimed "insertion data groups (EditPack_V_h)" is met by the numerous sections (one of a plurality of Packs) of data between sections m and q. Although the system of Sugahara does in fact have the capability to re-encode the MPEG picture data sections A and B, the sections after point Q are not re-encoded, and therefore are not separated upon the splicing/re-encoding process. The term "to-be-edited" has been given its broadest reasonable interpretation. This discussion is similarly applied to the insertion data groups (EditPack_V_n) and the new data groups (Pack_V_n). The new input data groups (Pack_V_n) is stored separately from the EditPack_V_n data in the re-encoded MPEG sections A and B as part of the MPEG standard (see Col. 41, line 64 through col. 42, line 67).

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. **Claims 1-16** are rejected under 35 U.S.C. 102(e) as being anticipated by Sugahara et al. (US 7,292,782).

Regarding claim 1, Sugahara teaches an image data processing apparatus for processing image data encoded with the MPEG technique (Fig. 12C and col. 36, line 24+ teaches of MPEG) and including data groups (Pack_V) each having an auxiliary recording area (AUX_V) provided therein, led by an I or P picture and including a B picture (col. 42, lines 45-55 teaches of auxiliary data stored after a I or P picture), the apparatus comprising:

a recording means for recording a to-be-edited data group (Pack_V_h) at an edition point on a recording medium where the data groups (Pack_V) have already been recorded, and recording, to the recording medium, insertion data groups (EditPack_V_h) (Col. 41, line 64 through col. 42, lines 67 teaches of re-encoded data) each having an insertion auxiliary recording area (EditAUX_V_h) (Col. 41, line 64 through col. 42, lines 67 teaches of re-encoded auxiliary information in the form of VBV and PTM values) provided therein before the to-be-edited data group (Pack_V_h) in response to a bit occupancy of a VBV (video buffering verifier) buffer used for decoding and including a copy picture repeatedly representing a previous picture and/or stuffing byte, wherein the insertion data groups (EditPack V h) are independent from the to-be-edited data group (Pack V h) so that only the insertion data groups (EditPack V h) are separated upon splicing. (Col. 41, line 64 through col. 42, lines 67 and col. 36, line 3 through col. 37, line 51 teaches of re-encoding data at a splice point between a first segment A and second segment B by referring to the VBV information for each segment

(this process is similarly applied in Fig. 12c). Given the broadest interpretation, Sugahara et al's Figure 12C is referenced. The claimed "to-be-edited data group" is met by the data groups that are located after point q. The claimed "insertion data groups (EditPack_V_h)" is met by the numerous sections (one of a plurality of Packs) of data between sections m and q. Although the system of Sugahara does in fact have the capability to re-encode the MPEG picture data sections A and B, the sections after point Q are not re-encoded, and therefore are not separated upon the splicing/re-encoding process. The term "to-be-edited" has been given its broadest reasonable interpretation. During re-encoding, a new GOP may be written which includes P and B frames.),

the recording means recording, based on the edition point in case an insertion data group (EditPack_V_h) is already recorded at the edition point, insertion data groups (EditPack_V_n) located before a new input data group (Pack_V_n) each having an insertion auxiliary recording area (EditAUX_V_n) provided therein and including a copy picture and/or stuffing byte, wherein the insertion data groups (EditPack V n) are independent from the new input data group (Pack V n) (Col. 41, line 64 through col. 42, lines 67 and col. 36, line 3 through col. 37, line 51 teaches of re-encoding a splice point, specifically, this situation applies to the end portion (or between points p and q) which are re-encoded and placed before at point q preceding the rest of the second MPEG picture data. Furthermore, as discussed above in paragraph 3, the discussion regarding "to-be-edited data group (Pack_V_h)" and that only the "insertion data groups (EditPack_V_h)" applies to the insertion data groups (EditPack_V_n) and the new data groups (Pack_V_n). The new input data groups (Pack_V_n) is stored separately from

the EditPack_V_n data in the re-encoded MPEG sections A and B as part of the MPEG standard (see Col. 41, line 64 through col. 42, line 67)).

Regarding claim 2, Sugahara et al. teaches the claimed as discussed in claim 1 above wherein upon re-encoding of MPEG data between points p and q, the old data is removed and new data replaces the old MPEG data.

Claims 3 and 4 are rejected for the same reasons as discussed in claim 1 above wherein the re-encoding is completed to avoid VBV buffer overflow or underflow and therefore the copy pictures like P and B frames (stuffing/copy-pictures) are re-encoded between point m and o (or o and q).

Regarding claim 5, Sugahara et al. further teaches that only for I and P frames are VBV information sent/written (col. 42, lines 45-55), and therefore for B picture types (stuffing byte), there exists no header (see col. 29 lines 44-62 which teaches of PTS and DTS values related to PTM value stored in VBV information).

Regarding claim 6, the re-encoded VBV information for a re-encoded P picture meets the claimed as it identifies that a P picture is present.

Claim 7 is rejected for the same reasons as discussed in claim 1 above, wherein the edition points A through B are re-encoded, therefore, the re-encoded scenes begin at the top of MPEG sequence.

Claim 8 is rejected for the same reasons as discussed in claims 1, 3 and 4 above, wherein a re-encoded sequences has a new MPEG sequence including new I, P and B pictures. Therefore, P and B meet the claimed copy picture and stuffing byte, respectively.

Method claims 9-16 are rejected for the same reasons as discussed in apparatus claims 1-5 and 7-8 above.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **GELEK TOPGYAL** whose telephone number is (571)272-8891. The examiner can normally be reached on 8:30am -5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gelek Topgyal/
Examiner, Art Unit 2621

/Thai Tran/
Supervisory Patent Examiner, Art Unit 2621